

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

NO. 5:15-CV-576-FL

MIGUEL CONTRERAS, CARLOS
AGUILAR, and RENE SALVATIERRA,

Plaintiffs,

v.

TRICOMM UTILITY SERVICES LLC

Defendant.

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ORDER


This matter is before the court on its own initiative. On March 15, 2017, this court held in abeyance decision on plaintiffs' motion for entry of default judgment (DE 45), pending filing by plaintiffs of a motion for entry of default against defendant Tricomm Utility Services LLC ("Tricomm"). Plaintiffs have not since moved for entry of default against defendant Tricomm. A motion for entry of default, however, is a prerequisite for entry of default judgment. See Fed. R. Civ. P. 55(a) & (b). Moreover, the instant motion for entry of default judgment pertains to both defendant Tricomm and now-terminated defendant Boney, against whom judgment may not at this time be entered due to suggestion of bankruptcy.

Accordingly, plaintiffs' motion for entry of default judgment (DE 45) is DENIED WITHOUT PREJUDICE. In the event plaintiffs seek default judgment against Tricomm only, plaintiffs must file first a renewed motion for entry of default against defendant Tricomm in accordance with Fed. R. Civ. P. 55(a). Then, in the event of entry of default by the court, plaintiffs

may file a renewed motion for entry of default judgment against defendant Tricomm, in accordance with Fed. R. Civ. P. 55(b).

If plaintiff does not so move for entry of default against defendant Tricomm within **21 days** of the date of this order, the clerk is DIRECTED to dismiss this action without prejudice for failure to prosecute.

SO ORDERED, this the 25th day of May, 2017.


LOUISE W. FLANAGAN
United States District Judge